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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,361	03/22/2004	Helen A. Cunningham	SUNMP242	3944
32291	7590	04/18/2005	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP			WALLING, MEAGAN S	
710 LAKEWAY DRIVE			ART UNIT	
SUITE 200			PAPER NUMBER	
SUNNYVALE, CA 94085			2863	

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,361

Applicant(s)

CUNNINGHAM, HELEN A.

Examiner

Meagan S. Walling

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-25 is/are allowed.
- 6) ☒ Claim(s) 1 and 4-16 is/are rejected.
- 7) ☒ Claim(s) 2, 3, and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 2 and 10 are objected to because of the following informalities:

Claim 2 recites the limitation "the computer center". There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the rack" in claim 9. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lander et al. (US 5,974,862).

Regarding claim 1, Lander et al. teaches receiving an acoustic signal from a source placed within an acoustic monitoring area (column 3, lines 18-21); processing a received acoustic signal, the processing using data from at least two sensors (column 3, lines 21-24); identifying an approximate localized point in the acoustic monitoring area, the approximate localized point defining a physical location of the source (column 3, lines 33-34); and reporting the physical location of the source over a network (column 3, lines 42-46).

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Regarding claim 4, Lander et al. teaches that each sensor of the at least two sensors is a microphone (column 5, line 22).

Regarding claim 5, Lander et al. teaches that the operation of processing the received acoustic signal is one of an arrival-time correlation process, distributed sensor/time of flight process, and echolocation process (column 3, line 24).

Regarding claim 6, Lander et al. teaches that the approximate locale of the source is determined by an acoustic signal processor (column 5, lines 28-33).

Regarding claim 7, Lander et al. teaches that the physical location of the source is reported out-of-band (column 8, lines 42-48).

Regarding claim 8, Lander et al. teaches that the physical location of the source is reported using wireless technology (column 6, lines 2-3).

Regarding claim 9, Lander et al. teaches a transmitter device for transmitting streams of acoustic signals, the transmitter device being defined on the source (Ref. 44); at least a pair of compact sensors for detecting and capturing the streams of acoustic signals (Ref. 34); and a signal processor for receiving and processing captured streams of acoustic signals so as to ascertain the physical location of the source (Ref. 210).

Regarding claim 10, Lander et al. teaches that the physical location is ascertained using an arrival-time correlation process (column 3, lines 23-24).

Regarding claim 11, Lander et al. teaches a computer console for processing and displaying a location of the source in the acoustic environment (Ref. 210 and 220).

Regarding claim 12, Lander et al. teaches that the pair of compact sensors is a pair of microphones (column 5, line 22).

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Regarding claims 13-16, "acoustic environment" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Allowable Subject Matter

3. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if rewritten to overcome claim informalities discussed above.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowability of claim 2 is the inclusion of the limitation that the source is one of a computer system and a rack including the computer center. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowability of claim 3 is the inclusion of the limitation that the acoustic monitoring area is a data center. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

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4. Claims 17-25 are allowed.

The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of claim 17 is the inclusion of the limitation of receiving a failure report from the failed computer system; transmitting streams of acoustic signals; capturing transmitted streams of acoustic signals; and processing the transmitted streams of acoustic signals so as to determine the physical location of the failed computer system. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the allowance of claim 25 is the inclusion of the limitation of for each system site in the data center, defining an acoustic signal processor on a central location of the system site; and for each rack in the system site, placing an acoustic signal emitter on a rack; and for each computer system in the rack, generating an identifiable signal; communicating the identifiable signal to the rack; transmitting associated streams of acoustic signals; capturing transmitted streams of acoustic signals by the acoustic signal processor; processing transmitted streams of acoustic signals; and displaying a locality of the computer system generating the identifiable signals. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Markow et al. (US 2004/0205403) teaches detecting hard drive failure in a computer using acoustic sensors such as microphones.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S. Walling whose telephone number is (571) 272-2283. The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msw


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